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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,141	02/04/2002	Joyce B. Palazzotto	50142US010	7314

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Office of Intellectual Property Counsel
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EXAMINER

LEWIS, AARON J

ART UNIT PAPER NUMBER

3761

DATE MAILED: 03/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/067,141

Applicant(s)
JOYCE B. PALAZZOTTO ET AL.

Examiner
AARON J. LEWIS

Art Unit
3761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 4, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

Art Unit: 3761

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1-20 include language which is not supported by the specification as originally filed. That language includes the terminology "...spacer...", "...strain relief means..."; "...said spacer further having a microphone extending therefrom;..."; and "...a microphone extending therefrom and into an interior of said face mask...".

Interference

2. Claims 1-20 of this application has been copied from U.S. Patent No. 5,463,693 for the purpose of an interference.

Applicant has failed to specifically apply each limitation or element of each of the copied claim(s) to the disclosure of the application.

Applicant is given ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this communication to specifically apply each limitation or element of each of the copied claim(s) to the disclosure of the application. See 37 CFR 1.607(a)(5). THE

Art Unit: 3761

PROVISIONS OF 37 CFR 1.136 DO NOT APPLY TO THE TIME SPECIFIED IN THIS ACTION.

Each of claims 1,10,19 and 20 include the term "...spacer..."; however, the instant specification lacks any support for a "...spacer...".

Claim 4 recites "...means for attaching..." whereas claim 4 of patent ('693) recites "...a clip for attaching..."

Claim 7 recites that the spacer is constructed of a "plastic material." whereas claim 7 of patent ('693) recites "...a thermoplastic material..."

Claim 8 recites "...wherein said spacer is comprised of a first member for connecting to the face mask and a second member for connecting to the air filter." whereas claim 8 of patent ('693) recites "...wherein said spacer is comprised of two half members sonically welded together."

Claim 12 recites "...when the voice transmission system is in use." whereas claim 12 of patent ('693) does not include that language.

Claim 9 is an identical copy of claim 9 of patent ('693); however, the instant specification lacks any support for a "...strain relief means..."

Claim 13 recites "...means for attaching..." whereas claim 13 of patent ('693) recites "...a clip for attaching..."

Claim 16 recites that the spacer is constructed of a "...plastic material." whereas claim 16 of patent ('693) recites "...a thermoplastic material..."

Art Unit: 3761

Claim 17 recites "...wherein said spacer is comprised of a first member for connecting to the face mask and a second member for connecting to the air filter." whereas claim 17 of patent ('693) recites "...wherein said spacer is comprised of two half members sonically welded together."

Claim 18 is an identical copy of claim 18 of patent ('693); however, the instant specification lacks any support for a "...strain relief means..."

Each of claims 19 and 20 recites "...a clean air envelope..." (in lines 8 and 7 respectively) whereas each of claims 19 and 20 of patent ('693) recites "...an interior space..."

3. Claims 1-20 of this application is asserted by applicant to correspond to claim(s) of U.S. Patent No. 5,463,693.

The examiner does not consider these claims to be directed to the same invention as that of U.S. Patent No. 5,463,693 because of the differences between the claims submitted as copied and the actual claims 1-20 of patent ('693) as pointed out above. Accordingly, an interference cannot be initiated based upon these claims.

Further, it is submitted that claims 1-20 of patent ('693) do not define the same subject matter as is set forth in the disclosure of the instant application. Claims 1-20 of patent ('693) include at least one major difference with the the disclosure of the instant application. In claims 1 and 10 of patent ('693) the recitation "...said spacer further having a microphone extending therefrom;..." and in claims 19 and 20, the recitation "...a microphone extending therefrom and into an interior of said face mask...", each defines a microphone which extends FROM a spacer and a microphone

Art Unit: 3761

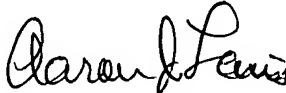
which extends from a spacer and INTO an interior of the face mask. The element recited in the claims of the instant application which may be readable upon the microphone of patent ('693) is "...speech reception means...". The "...speech reception means..." as defined in the claims of the instant application is neither recited to extend from a spacer nor extend from a spacer and into the interior of a face mask. Even if the phrase "...extending therefrom..." might be interpreted as defining a microphone which extends in any direction to any extent from a spacer, a reading of the claim language in light of the specification and drawings of patent ('693) reveals that the microphone has only one intended orientation which is within the interior of the face mask.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of the art is cited to show relevant protective respirators.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Lewis whose telephone number is (703) 308-0716.

Aaron J. Lewis

March 16, 2002


Aaron J. Lewis
Primary Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.